

Executive Registry

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INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

WASHINGTON, D.C. 20408

DD/A Registry

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REFERENCE

MAR 22 1976

Honorable George Bush
Director, Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Bush:

The Interagency Classification Review Committee was established by Section 7(A) of Executive Order 11652 to assist the National Security Council in the discharge of its responsibility to monitor implementation of the Order. In particular, the Executive order charges the Committee to receive, consider and take action on suggestions and complaints with respect to the administration of the Order.

Recently, two specific problem areas have been brought to the attention of the Committee. The first of these problems is the origination, and distribution both within and without the originating department of documents which bear markings similar to those authorized by the Executive order as classification markings but which do not contain information which meets the criteria established by the Order for qualification as material requiring protection in the interests of national security. Examples of such markings are "(Agency Confidential)" and "Conference Confidential." Experience shows that, in some instances, such markings are applied not to designate the information as that requiring protection in the interests of national security, but rather, to designate it as information which may be withheld from public release under the exemptions provided for in the Freedom of Information Act, as amended, other than 5 U.S.C. 552(B)(1), or as information which may be withheld for other reasons. In other instances, investigation reveals that the application of these markings derives from a lack of understanding on the part of departmental personnel of classification criteria and procedures. The improper use of such markings results in (1) confusion on the part of recipients as to whether such information qualifies as national security information, (2) proliferation of improperly classified information and (3) degradation of the classification system.

Section 1 of Executive Order 11652 is clear in its proscription of security classification markings other than Top Secret, Secret and Confidential. This section of the Order states that "No other categories shall be used to identify official information or material as requiring protection in the interests of national security, except as otherwise expressly provided by statute." Departments and agencies are requested, therefore, to avoid the use of the words "Top Secret," "Secret" or "Confidential" in any markings, except in accordance with the requirements of Executive Order 11652.

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The second problem which has come to the attention of the Committee has been the application of access control terms such as "sensitive" used as an adjunct to or in conjunction with authorized classification markings. Presumably, the use of such terms is intended to indicate that classified documents so marked are to receive limited and controlled distribution and dissemination. However, outside the originating department, this and similar terms have no generally understood meaning. Consequently, when a classified document is so marked, confusion on the part of the recipient with respect to the handling of and extracting from the document prevails. Further, the use of such terms tends to connote the existence of security classifications other than those prescribed in the Order. This, in itself, has been a subject of major concern to the Congress over the past few years during hearings associated with proposed classification legislation.

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Concerning the use of access control designations in conjunction with authorized classifications, Sections 8 and 9 of the Executive Order provide instruction relative to the handling and distribution of material covered by the Atomic Energy Act and for material covered by special departmental arrangements. Similarly, Section IV, H., of the May 17, 1972 National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information prescribes the application of warning notices to be displayed on classified documents. For information covered by these sections, mutually agreed upon and authorized designations such as "Secret/Restricted Data," "Top Secret/(Codeword)," "Secret/CNWDI" and the like have been developed. The use of such mutually agreed upon inter-agency terms in a restricted sector of the executive branch presents no problems or confusion. Rather, it is the use of gratuitous terms for which the meaning is not clear which causes the confusion.

In those situations where there is not a mutually agreed upon inter-agency term such as those described above, it would appear that strict adherence to the principle that any classified document shall be released only to persons properly cleared and who have a "need-to-know" the information in order to carry out their official duties will normally achieve the desired degree of control over the information. If, in a special situation, it is deemed necessary to inform recipients of certain documents that release is intended only to certain persons, then the appropriate dissemination instructions should be included in the body of the text of the document or added as a special notation separate and apart (e.g., on a separate line) from the security classification marking. In such special situations, these special notations or instructions should, standing alone, convey to the recipient a clear understanding of the dissemination limitations.

It is requested that the above be given appropriate dissemination within your Department and that you take such further action as may be necessary to assure that security classification markings are in conformance with those set forth in Executive Order 11652 and its implementing National Security Council Directive of May 17, 1972. Please provide the Executive Director of the Committee a copy of any action paper you may develop based on this request.

Sincerely,



JAMES B. RHOADS
Acting Chairman